

REMARKS

Claims 1-10, 12-21 and 23-31 are pending in the application

Claims 1-3, 6-8, 10, 12-14, 17-19, 21, 23-26 and 29-31 have been rejected.

Claims 4, 5, 9, 15, 16, 20, 27 and 28 have been objected to.

Claim 32 has been allowed.

Claims 1, 8, 9, 12, 19, 20, 23, 30, 31, and 32 have been amended.

Claim 24 has been cancelled.

Unless otherwise specified in the below discussion, Applicants have amended the above-referenced claims in order to provide clarity or to correct informalities in the claims. Applicants further submit that, unless discussed below, these amendments are not intended to narrow the scope of the claims. By these amendments, Applicants do not concede that the cited art is prior to any invention now or previously claimed or that there was any ambiguity associated with the claims as originally presented. Applicants further reserve the right to pursue the original versions of the claims in the future, for example, in a continuing application.

Allowable Claims

Applicants thank the Examiner for the indication in both the Advisory Action and the Final Office Action that Claim 32 is allowable as written. Applicants also thank the Examiner for the indication in the Final Office Action, as clarified in the Advisory

Action, that claims 4, 5, 9, 15, 16, 20, 27 and 28 would be allowable if amended as presented in the Final Office Action.

Rejection of Claims under 35 U.S.C. § 112

Claims 1-10, 12-21, and 23-31 stood rejected, by the Final Office Action, under 35 U.S.C. § 112 second paragraph as purportedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. *See* Final Office Action, p.2. Applicants thank the Examiner for the notice given in the Advisory Action that this rejection has been overcome.

Rejection of Claims under 35 U.S.C. § 102

Claims 1-3, 6-8, 10, 12-14, 17-19, 21, 23-26 and 29-31 stand rejected under 35 U.S.C. § 102(b) as purportedly being anticipated by U.S. Patent No. 5,459,731 issued to Brief et al. ("Brief"). *See* Final Office Action, p.3. In order to advance prosecution Applicants offer amendments.

Applicants have amended independent claims 1 and 12 to include limitations similar to dependent claims 9 and 20, respectively. Independent claim 23 has also been amended to include similar limitations. As mentioned above, the Examiner has indicated that the limitations of claims 9 and 20 render those claims patentably distinct. Thus, Applicants submit that claims 1-3, 6-8, 10, 12-14, 17-19, 21, 23-26 and 29 are now allowable and respectfully request the withdrawal of this rejection against these claims.

Claims 30 and 31 have been amended to recite an evaluation time period which “is approximated by dividing the value of a hysteresis factor, defined as a ratio of a physical link alarm set threshold to a physical link alarm clear threshold, by the product of a link error alarm set threshold and the transmission bit rate of said link.” Applicants respectfully submit that the cited sections of Brief fail to provide disclosure of such an approximation of an evaluation time period.

For at least these reasons, Applicants submit that Brief fails to provide disclosure of all the limitations of independent claims 1, 12, 23, and 30, and all claims depending therefrom, and that these claims are in condition for allowance. Applicants therefore respectfully request the Examiner’s reconsideration and withdrawal of the rejections to these claims and an indication of the allowability of same.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5090.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. Applicant also hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to deposit account 502306.

Respectfully submitted,

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